

SUPPLEMENTAL  
STATEMENT IN SUPPORT  
OF  
TOWN OF RIVERHEAD  
COMMUNITY DEVELOPMENT AGENCY'S APPLICATION  
FOR  
A WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM  
SUBDIVISION PERMIT  
EPCAL

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## **I INTRODUCTION**

This Supplemental Statement is being submitted to provide additional information and analysis requested by the NYSDEC and will supplement the Applicant's initial September 3, 2019 Statement in Support of its Application (hereinafter referred to as the "Applicant's Initial Submittal").

In accordance with the request of the NYSDEC, the proposed Subdivision Map sought to be approved has been revised by: a) adding Note 4 to recite that the locations of the wetland areas and buffers, and of the Wild, Scenic and Recreational Rivers (WSRR) boundary are “approximate”; b) by changing the reference in the label on the plan from “successional old field” to “grasslands”; and c) by amending Note 3 to read:

“SITE PLAN REVIEW OR YIELD DETERMINATION FOR LOTS 6, 7, AND 8 SHALL COMPLY WITH AND BE CALCULATED BASED UPON APPLICABLE ZONING, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION WETLAND AND THREATENED/ENDANGERED SPECIES BUFFER REQUIREMENTS/REGULATIONS, AND THE TOWN BOARD’S JULY 19, 2018 SUPPLEMENTAL GENERIC FINDINGS STATEMENT AT SUCH TIME AS SPECIFIC SITE DEVELOPMENT IS PROPOSED”.

The revised Subdivision Map (4 sheets) is attached as Exhibit 17.

### **A. SUPPLEMENT TO SECTION 3 OF THE APPLICANT'S INITIAL SUBMITTAL RELATING TO SEQRA**

#### **SEQRA CONSISTENCY ANALYSIS UPDATE**

A detailed SEQRA Consistency Analysis Update dated March 25, 2020 is being submitted as part of this Supplemental Submittal as Exhibit 13.

This SEQRA Consistency Analysis Update provides additional information requested by the NYSDEC to supplement the 4/1/19 SEQRA Consistency Analysis prepared pursuant to 8 NYCRR 617.10 by Jeffrey R. Seeman, CGCS/CEP/REC which is Exhibit 6 to this application.

The 4/9/19 Consistency Analysis had been prepared for the evaluation and comparative analysis of the 50-Lot Subdivision Map, known as “Subdivision Map for Enterprise Park at Calverton,” prepared by VHB, dated June 6, 2014 (2,323.9 acres) to an 8-Lot Subdivision Map (2,106.69 acres) located in Calverton, NY on land commonly known and referred to as EPCAL dated April 1, 2019.<sup>1</sup>

The SEQRA Consistency Analysis Update now provides additional information, including but not limited to, current field studies and mitigation measures referenced in the FSGEIS and in the “Comprehensive Habitat Protection Plan Proposed Redevelopment of EPCAL Property at Calverton” (VHB, revised February 2016).

More specifically, the SEQRA Consistency Update Analysis provides

- clarification and demarcation of location of existing habitat areas on the 8-Lot Subdivision used by Threatened, Endangered and Special Concern species;-
- additional information related to sewer and water infrastructure;
- details regarding sanitary design upgrades and planned improvements currently being undertaken at EPCAL by the Calverton Sewer District,
- information on the current operations of the Calverton Sewer District and its capacity to handle future discharge generated by build out of the Subdivision;
- handling of industrial waste that may be generated;
- information regarding the current capabilities of the Riverhead Water District to meet the current and future needs of EPCAL;

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<sup>1</sup> Note, the difference in acreage between the two subdivision maps reflects that United States Department of Navy parcels described as “Parcel A” and “Parcel B” totaling approximately 216.7 acres are under a remedial action program to address groundwater contamination and are not part of the proposed 8-Lot Major Subdivision Map. In addition, 4.9 acres and 12.69 acres proposed for Burman Boulevard right of way and dedication for highway purposes for Rt. 25 and Grumman Boulevard respectively are not included in the acreage for the 8 Lot subdivision.

- detailed analysis of the potential impacts the noncommercial aviation uses of the two runways may have on adjacent grassland habitats and the grassland birds that rely on those habitats;

- detailed analysis and mitigation recommendations relating to deicing that may occur as a result of the aviation use of the property; and

- detailed analysis of the potential impacts of a "concept plan" that had been circulated by CAT during its "due diligence" period provided under the Contract of Sale with the CDA.

### **COMPREHENSIVE HABITAT PROTECTION PLAN UPDATE**

In conjunction with the preparation of the SEQRA Consistency Update Analysis, the Applicant has prepared an update to the February 2016 Comprehensive Habitat Protection Plan (CHPP) that had been prepared as part of the FSGEIS adopted for the 50-Lot Subdivision Map known as "Subdivision Map for Enterprise Park at Calverton," prepared by VHB, dated June 6, 2014.

While the requirements of the CHPP remain in full force and effect, the Update has been undertaken to 1) add restrictions on clearing of woodland habitats for the Northern Long Eared Bat; 2) provide a current the field survey of the property to determine any evidence of the presence of two plant species know to provide food for the Frosted Elfin Butterfly; 3) provide a study of the impacts aviation uses may have on nearby grassland habitats and grassland birds; 4) to provide the Overlay Maps that show the location of the various critical habitats for Threatened, Endangered, and Special Concern species; and 5) to provide a detailed discussion of the potential impacts on the grassland and other habitats near the runways from deicing of airplanes and a hierarchy of mitigation steps to be employed to protect these habitats.

As set forth in more detail in the Comprehensive Habitat Protection Plan, the Update adds a requirement for a covenant and restriction to be placed against the property that all tree clearing

will occur during the Northern Long Eared Bat's hibernation period between November 1 and April of each year. Any tree clearing outside of the winter hibernation period will require a separate Part 182 permit. The Update includes strict requirements applicable during the period from April 1 to October 31.

As set forth in more detail in the Update, a field study was conducted for the presence of the two plant species known to provide food for the Elfin Butterfly. As set forth in SEQRA Consistency Analysis Update, consistent with the field work undertaken in 2016, no evidence of the plants were found. The Update recommends that similar field surveys be undertaken by qualified persons to inspect presence or absence of Wild Blue Lupine and Wild Indigo prior to any physical land development activity.

As reported in more detail in the contained in the SEQRA Consistency Analysis Update, the studies that have been undertaken to determine whether active runway usage adversely impacts the grassland habitats adjacent to the runways and grassland birds have found that grassland habitats adjacent to active runways remain a suitable habitat for grassland birds.

The Comprehensive Habitat Protection Plan Update also sets forth a detailed hierarchy of mitigation measures to be undertaken in the event deicing were to occur on either of the runways.

As recited by the Town and CDA in its Statement of Support, Consistency Analysis, Consistency Analysis Update dated March 25, 2020, and proposed Covenants and Restrictions, that development of Lots 6 and 7 are governed by the EPCAL Revitalization Plan, the Town Comprehensive Master Plan, the Calverton Urban Renewal Plan, the Town's Zoning Code and Zoning Map as all amended and adopted as a result of the full environmental review process that had been undertaken with respect to the original 50 lot plan. In addition, development of Lots 6 and 7 shall require State, County and local approvals with each entity conducting its own review

under 6 NYCRR 617.10 to determine whether the proposed development is consistent with the development constraints and mitigation measures set forth in the Supplemental SEQRA Finding Statement, Consistency Analysis, the Consistency Analysis Update (Exhibit 13 hereto), Comprehensive Habitat Protection Plan of February 2016 and the Update to CHPP (Exhibit 14 hereto). Specifically, with respect to the CHPP and Updated CHPP, development on Lots 6 and 7 will also require the developer to address mitigating adverse impacts, if any, on the ecological communities that serve as habitat for threatened and endangered species that may result from the specific development plan being proposed. If it is determined by the New York State Department of Environmental Conservation that a proposed development would result in a take, as defined in 6 NYCRR Part 182, an Incidental Take Permit would be required by the Department before the commencement of such development.

In addition and in furtherance of the above, the Town has prepared and now has revised a set of covenants and restrictions to be recorded against property to incorporate additional language requested by the Department. The revised covenants and restrictions are attached hereto as Exhibit 16.

As discussed in more detail below, at the request of NYSDEC the Town has secured the purchaser of Lots 6, 7 and 8 to agree that no development will occur on Lot 8. Instead, Lot 8 would be included as part of the areas to be protected from development (see the November 20, 2019 letter of Christopher Kent, counsel for the purchaser, attached as Exhibit 15 hereto. This limitation on Lot 8 is included in the revised covenants and restrictions (Exhibit 16).

**B. SUPPLEMENT TO SECTION 4 OF APPLICANT'S INITIAL SUBMITTAL -  
ADDITIONAL INFORMATION IN SUPPORT OF THE APPLICATION (6 NYCRR  
666.8(a)(5))**

**ACREAGE WITHIN THE WSRR BOUNDARY**

A portion of Lots 1, 4, 5, 6, 7 and 8 (282.58 acres in total) of the 8-Lot Subdivision (2106.69 acres) are located within the boundary of the Wild, Scenic and Recreational Rivers or 13.41 % of the total acreage. It should be noted that of the 282.58 acres within the Wild, Scenic and Recreational Rivers boundary approximately 92 acres lie within the protected 1000' Tiger Salamander Buffer Non Disturbance Area and sterilized from future development. (See Exhibit 13, page 8 of the Consistency Analysis Update). In addition, approximately 54.60 acres of land within the WSRR Boundary are located on Lot #1 (the Pine Barrens Core parcel) which is being retained by the CDA. While a portion of that acreage is within a protected 1000' Tiger Salamander Buffer, the balance of this acreage outside the buffer area is likewise sterilized from future development.

The only portions of the 8-Lot Subdivision within the WSRR boundaries that are currently improved are:

- Lot 5, which is improved with the Riverhead Community Center (known as the Henry Pfeifer Community Center). There are no present plans to expand or change the structures on Lot 5 or their use.

- A Town of Riverhead Recreational Trail, consisting of an asphalt paved walking and bikeway path in accordance with the NYSDEC Wild & Scenic Recreational Rivers Permit # 1-4730-00013-00053 dated November 8, 2016, that runs along the southern boundary of the subdivision.

The Town's 8-Lot Subdivision application does not seek to disturb or develop property within the Wild Scenic Recreational Rivers Boundary. Notwithstanding this, the contract vendee of Lots 6, 7 and 8 circulated a "concept plan" during its "due diligence" period provided under its Contract of Sale with the CDA. The concept plan shows the addition of two ingress and egress

roadways from Grumman Boulevard, one accessing Lot 6 and the other Lot 7. Both roads are located within the WSSR boundary. In addition, the southern portion of a proposed building shown on the concept plan just east of the easterly runway is located within the WSSR boundary. While CAT made it very clear that the sketch was conceptual only and not reflective of how it would develop the acreage it was purchasing, it should be noted that Town shall require that any application for future development that proposed any development within the WSSR boundaries to the adhere to the Wild Scenic Rivers Restrictions Act or seek appropriate permit application and relief to the New York State Department of Environmental Conservation.<sup>2</sup>

## **PLANNED USE OF 8 LOT SUBDIVISION**

### **a) Lots 6, 7 & 8:**

Lot 6 (727.367 acres), Lot 7 (898.450 acres), and Lot 8 (18.179 acres) are currently under contract of sale between the Applicant and Calverton Aviation & Technology LLC.

As to Lot 8, CAT has agreed that no development will occur on this lot. This will avoid any adverse impacts on the Tiger Salamander habitat and buffer areas that comprise a substantial portion of the Lot. Lot 8 will instead be included as part of the areas to be protected from development (see the November 20, 2019 letter of Christopher Kent, counsel for Calverton Aviation & Technology LLC, (CAT), the contract vendee of Lots 6, 7, and 8, which is attached as Exhibit 15 attached hereto). A covenant requiring this preservation of Lot 8 will be recorded against the property (see Exhibit 16 attached hereto).

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<sup>2</sup> As discussed in SEQRA Consistency Analysis Update submitted herewith as Exhibit 13, the concept plan's increased usage of Grumman Boulevard, if included in an actual plan for development of Lots 6 and 7, would likely require additional SEQRA review since such a proposal would most likely be considered inconsistent with the traffic mitigation measures contained in the existing FSGEIS and Supplemental Finding Statement.



The planned use of Lots 6 and 7 will be for full build out consistent with the uses permitted under the Planned Development (PD) zoning provisions. By definition, the PD zoning allows a wide variety of permitted uses, all of which were fully studied in the DSGEIS and FSGEIS, that include industrial, institutional, manufacturing, commercial and energy. A 10,000' runway is located on Lot 6 and a 7,000' runway is located on Lot 7 which, under the PD zoning and a restrictive covenant to be recorded against the property, can only be used for noncommercial aviation uses. The covenant to be recorded against the property provides:

"The runways on Lots 6 and 7, shall not be (i) used to operate a commercial passenger airport or (ii) listed on aviation charts or maps as a location at which aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, and flight instruction are provided to the general public, regardless of whether the lots are developed as one single, coordinated and unified development or as uncoordinated lots" (Covenant # 4 in Exhibit 16 attached hereto).

Any development of Lots 6 and 7 must also comply with all of the requirements and mitigation measures set forth in the Comprehensive Habitat Protection Plan (CHPP) dated February 2016, as updated by the March 25, 2020 Comprehensive Habitat Protection Plan Update.<sup>3</sup> These mitigation and preservation measures are designed to protect critical habitats for Threatened, Endangered, and Special Concern species. This includes the requirement for the preservation/creation and management into perpetuity of at least 583 acres of grassland habitat. The location of the existing critical habitats for Threatened, Endangered, and Special Concern species are shown on a series of overlay maps that are included in the Comprehensive Habitat Protection Plan Update as Exhibits A through D (Habitat Overlay Maps). Any proposed development that would impact any of these critical habitat areas will require the developer to address mitigation of adverse impacts the proposed development will have on these identified habitat areas. If it is determined by the New York State Department of Environmental

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<sup>3</sup>The CHPP is Exhibit G to the FSGEIS which is Exhibit 2 to the Applicant's Initial Submittal.

Conservation that a proposed development would result in a take, as defined in 6 NYCRR Part 182, an Incidental Take Permit would be required by the Department before the commencement of such development.

To the extent, development of Lots 6 and 7 are not proposed as a single, coordinated and unified development plan, then the separate development of Lots 6 and 7 shall comply with and be consistent with the Town of Riverhead Comprehensive Plan; PDD Zoning District; the Final Supplemental Generic Impact Statement accepted and adopted on July 19, 2016, including the Comprehensive Habitat Protection Plan (CHPP) dated February 2016, as updated by the March 25, 2020 Comprehensive Habitat Protection Plan Update and the New York State Department of Environmental Conservation wetland and tiger salamander buffer requirements/regulations; and the requirements of 6 NYCRR Part 182. To the extent the proposed separate development of Lots 6 or 7 are not consistent with all of the above, development of any kind and in any manner shall require among other things, Supplemental Environmental Impact Statements pursuant to 6 NYCRR 617, including thresholds and criteria to reflect site-specific impacts that were either not addressed or deviated from the Final Supplemental Generic Impact Statement accepted and adopted on July 19, 2016. A covenant to this effect will be recorded against the property (see Covenant # 3 set forth in Exhibit 16 hereto).

**b) The planned use of the Lots 1, 2, 3, 4, and 5 being retained by the Applicant**

These five lots that are being retained by the Application will be used as follows:

**Lot 1** (292.788 acres) is located in the area defined as “Core Preservation Area” pursuant to the Long Island Pine Barrens Protection Act (“Act”), adopted in 1993, contained in Article 57 of the New York State Environmental Conservation Law and shall be preserved in accordance with the Act.

**Lot 2** (98.957 acres) is dedicated parkland and, since on or about April of 2003, Lot 2 has been impressed with New York State's longstanding common law public trust doctrine such that any deviation from use as parkland would require an act of legislative approval for the alienation of or change in the use of parkland. As the development of a 98 acre public park requires considerable planning and funding, the Town determined to improve the Lot in phases. Since 2003, the Town accomplished the following improvements: ball fields, dog park, picnic area, and parking. This past year the Town completed the walking/bicycle trail situated around the perimeter of the EPCAL property. The planning and construction of all of the above improvements were undertaken and completed with the assistance and grant funding from various state and local departments/agencies, including but not limited to: Office of Parks, Recreation and Historic Preservation, New York State Department of Environmental Conservation, and County of Suffolk. While legislative discussions dating back nearly 10 years ago slated phase III for possible future expansion of recreation use, an area approximately 30+- acres located in the easterly-most portion on Lot 2, to wit: soccer, lacrosse, and multipurpose fields, there are no present plans to undertake any expansion. Before ever doing so, the Town would have to embark on a study or plan to determine the type of any additional public park/recreation use and dedicate or secure funding for phase III.

**Lot 3** (11.278 acres) is situated along Route 25 near the intersection of Route 25 and Route 25-A. A portion of the property has and continues to serve as a memorial to the teamwork of Grumman employees and advances in aerospace and aviation technology that took place at EPCAL and is known as the "Grumman Memorial Park". As the EPCAL site is serviced by three fire districts – Manorville, Wading River, and Riverhead and emergency medical services are provided by Wading River Fire Department and Riverhead Volunteer Ambulance Corps., the

Town reserved a portion of Lot 3 for possible future expansion to accommodate public emergency service entities.

**Lot 4** (34.163 acres) will be used as the Recharge Parcel for the Calverton Sewer District's upgraded sewer treatment plant. In 2001, a group of citizens, technical experts, and Federal, State, and local officials — known as the PEP Management Conference — completed the Comprehensive Conservation and Management Plan (CCMP) designed to protect and preserve the Peconic Estuary system. The CCMP included a recommendation that all of the wastewater treatment facility outfalls be relocated to ground water recharge. (Note, “all” refers to and includes the Brookhaven, Riverhead, and Calverton (EPCAL) wastewater treatment facilities). The CCMP was endorsed by Governor Pataki in July 2001 and was forward to the EPA, with the hope that the federal agency would allocate funding to help implement the plan. On October 30, 2002, County Executive Robert Gaffney joined with representatives from state, local and federal government to approve the CCMP. In compliance with the recommendations of the CCMP, the Town of Riverhead Calverton Sewer District is proceeding with plans to upgrade the existing Calverton Sewerage Treatment Plant from secondary to tertiary treatment with existing wastewater treatment tanks used for equalization and the installation of membrane bio reactors (MBRs) required for treatment of 200,000 gpd. A critical component of the plan is to relocate the effluent discharge north of the groundwater, divide onto Lot 4, thereby ending the existing discharge into McKay Lake. There are no future plans for Lot 4 other than its use to implement the improvements identified in the CCMP and is the area designated for relocation of the effluent discharge.

**Lot 5** (25.508 acres) will continue to be used as a Town of Riverhead Community Center. Since on or about the time of the transfer from the United States to the Community

Development Agency, the Town has improved and maintained the former guard house and in exchange the Community Development Agency has permitted the Town to utilize the former guard house, now referred to as “Henry Pfeiffer Community Center” for a host of Town and community related uses, Town, County and State recreational and educational classes and workshops and LIPA (now PSE&G) emergency response center. While the Town entered into a lease with North Fork Animal Welfare League several years ago for use of the Henry Pfeiffer Community Center for an animal shelter, North Fork Animal Welfare League relocated, actually purchasing a facility, in Aquebogue, New York and no longer requires the property for animal shelter and dog control services. For the past year, the Town, through a short-term revocable license, has leased the Henry Pfeiffer Community Center to East End Disability Associates, Inc. for uses related to educational services for intellectually and developmentally disabled individuals. The current plan is for the building on Lot 5 to be used for Community Services and there are no present plans to expand or change the structures on Lot 5 or their use.

**c) Former Navy Parcel D**

Former Navy Parcel D, which is shown the northeast corner of Lot 6 on the 8-Lot Subdivision Map, was conveyed by the United States Navy to the Town of Riverhead by deed dated August 10, 2007 to the Town of Riverhead and Town of Riverhead to Town of Riverhead Community Development Agency by Quitclaim Deed dated March 8, 2019. Upon that transfer, the Former Navy Parcel D merged into and became a part of Lot 7. As part of Lot 7, the area is included in the sale to CAT.